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December 10, 2004

FACSIMILE TRANSMISSION SHEET

TO:	Examiner Leigh C. Maier Group Art Unit 1623 c/o Commissioner For Patents P.O. Box 1450 Alexandria, Virginia 22313-1450	CLIENT NO.:	28053
		MATTER NO.:	37955
		COUNTRY CODE:	US
		EXTENSION:	836

FAX NO.: 1-703-872-9306

FROM: Jeffrey S. Sharp

PAGES:
 (INCLUDING THIS PAGE)

PLEASE CONFIRM RECEIPT: No

MESSAGE: Please see the following. **URGENT!** Thank you.

Re: U.S. Patent Application Serial No. 10/009,023

Please contact Julie Burke at (312) 474-6300 if you do not receive all of the pages in good condition.

The material of this transmission contains confidential information intended only for the addressee. If you are not the addressee, any disclosure or use of this information by you is strictly prohibited. If you have received this facsimile in error, please notify us by telephone immediately.

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PAGE 246 * RCV'D AT 12/10/2004 4:37:52 PM (Eastern Standard Time) * SVR:USPTO-EFXRF-1/2 * DNG:8729306 * CBID:MarshallGerstein * DURATION (mm:ss):30-28

$$1201 \rightarrow 8 \times 200 = \$1600$$

[Handwritten signature]

01/03/2005 CTH0WAS2 00000001 132855 10009023

01 FC:1201 1600.00 DA

Application No.: 10/009,023

Docket No.: 28053/37955

(See Abstract, Lines 15-18).

Accordingly, the cited references fail to teach that replacing as little as 5% of an individual's daily carbohydrate with resistant starch in combination with replacing at least 10% of an individual's saturated fat intake with unsaturated fat would be successful in achieving the health benefits recited in the claims of the present invention. Accordingly, the rejections over Laughlin et al., either alone or in combination with Watanabe and Garg should be withdrawn and each of claims 1-10 and 26-33 should be allowed.

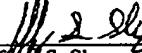
CONCLUSION

For all of the foregoing reasons, the final rejection should now be withdrawn and an notice-of allowance of all pending claims is respectfully solicited. Should the Examiner wish to discuss any issues of form or substance in order to expedite allowance of the pending application, she is invited to contact the undersigned attorney at the number indicated below.

Respectfully submitted,

MARSHALL, GERSTEIN & BORUN LLP
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By:


Jeffrey S. Sharp
Registration No. 31,879
Attorney for Applicants

December 10, 2004

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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT	(\$)	420.00	Attorney Docket No.	28053/37955
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METHOD OF PAYMENT (check all that apply)

Check Credit Card Money Order Other None

Deposit Account

Deposit Account Number **13-2855**

Deposit Account Name **MARSHALL, GERSTEIN & BORUN LLP**

The Director is authorized to: (check all that apply)

- Charge fee(s) indicated below Credit any overpayments
 Charge any additional fee(s) or any underpayment of fee(s)
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)		
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	

SUBTOTAL (1) (\$ 0.00)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	-20** =	x	=	Fee Paid
Independent Claims	-3** =	x	=	
Multiple Dependent				

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)		
1202 18	2202 9	Claims in excess of 20	
1201 86	2201 43	Independent claims in excess of 3	
1203 290	2203 145	Multiple dependent claim, if not paid	
1204 86	2204 43	** Reissue independent claims over original patent	
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) (\$ 0.00)

**or number previously paid, if greater. For Reissues, see above

Complete if Known

Application Number	10/009,023-Conf. #6243
Filing Date	April 12, 2002
First Named Inventor	Ian L. Brown
Examiner Name	L. Maier
Art Unit	1623

Attorney Docket No. 28053/37955

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	420.00
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(e))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	
Other fee (specify)			

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 420.00)

(Complete if applicable)				
Name (Print/Type)	Jeffrey S. Sharp	Registration No. (Attorney/Agent)	31,879	Telephone (312) 474-6300
Signature		Date	June 7, 2004	

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: June 7, 2004

Signature:

(Jeffrey S. Sharp)